

Overview of 2008 Income Tax Law Changes

Presented by:

IRS Tax Forms & Publications

(Rev. 8/1/08)



IRS Nationwide
2008
Tax
FORUM
Partners in Tax
Administration

Tax Rate on Net Capital Gain and Qualified Dividends

- ☐ Maximum tax rate on net capital gain and qualified dividends is reduced from 5% to 0% for taxpayers in the lowest two tax brackets for tax years after 2007.
- ☐ The 15% rate remains unchanged.
- ☐ New 0% rate applies for both regular tax and AMT.



Maximum Corporate Tax Rate on Qualified Timber Gain

- ☐ Maximum rate of tax on qualified timber gain (net of gains and losses under sections 631(a) and 631(b)) for corporations is reduced to 15%.
- ☐ Only timber held more than 15 years is taken into account.
- ☐ Rate applies for both the regular tax and the AMT.
- ☐ Applies only to tax years ending after May 22, 2008, and beginning before May 23, 2009.



IRA Contribution Limit

The contribution limit for traditional and Roth IRAs has increased to the lesser of:

- ☐ **\$5,000** (\$6,000 for taxpayers **age 50 or older** at the end of the year), or
- ☐ Taxable compensation.

If modified AGI exceeds the applicable limit in Rev. Proc. 2007-66, 2007-45 I.R.B. 970, the maximum traditional IRA deduction and maximum Roth IRA contribution may be limited.



Rollovers to Roth IRAs

After 2007, rollovers from the following plans can be made to a Roth IRA (in addition to a traditional, SEP, or SIMPLE IRA):

- ☐ A qualified pension, profit-sharing or stock bonus plan (including a 401(k) plan),
- ☐ An annuity plan,
- ☐ A tax shelter annuity plan (section 403(b) plan), or
- ☐ A deferred compensation plan of a state or local government (section 457 plan).

The rollover is subject to the same rules that apply for converting a traditional IRA into a Roth IRA.



Phase-Out of Reductions of Personal Exemptions and Itemized Deductions

For 2008, the amount by which these amounts can be reduced is only $\frac{1}{3}$ of the amount that would otherwise apply.

Example. The maximum reduction for the \$3,500 personal exemption for 2008 is \$1,167. The minimum exemption allowed after the phase-out is \$2,333.



Kiddie Tax Rules

The “kiddie tax” rules (reflected on Forms 8615 and 8814) are expanded to cover:

- ☐ A child who is age 18 at the end of the year and whose earned income is not more than half of the child’s support, and
- ☐ A student who is under age 24 at the end of the year and whose earned income is not more than half of the child’s support.



Increased Standard Deduction for Real Property Taxes

- ☐ For 2008 only, the standard deduction is increased by amount of otherwise deductible real estate taxes up to \$500 (\$1,000 if married filing jointly).
- ☐ Real estate taxes deducted in arriving at AGI cannot be included.



First-Time Homebuyer Credit

❑ First-time homebuyers can claim a refundable tax credit of up to \$7,500 (\$3,750 if married filing separately) for homes purchased after April 8, 2008, and before July 1, 2009. Can elect to treat a 2009 purchase as a 2008 purchase and claim the credit in 2008.

❑ Credit is phased out ratably over a \$20,000 range for taxpayers with AGI over \$75,000 (\$150,000 if married filing jointly).

❑ Functions as a 15-year interest-free loan, with 1/15th of credit recaptured annually beginning 2 years after year of purchase.

❑ Credit will be claimed on new Form 5405.



Exclusion on Sale of Main Home

For sales after 2007, the maximum exclusion on the sale of a main home by an unmarried surviving spouse is \$500,000 if:

- ☐ The sale occurs no later than 2 years after the date of the other spouse's death,
- ☐ The ownership and use requirements for joint filers were met immediately before the date of such death, and
- ☐ During the 2-year period ending on the date of such death, there was no sale or exchange of a main home by either spouse which qualified for the exclusion.



Exclusion on Sale of Main Home (continued)

- ❑ Individuals can elect to postpone the running of the 5-year test period for ownership and use for up to 10 years starting in 2008 while the individual or his or her spouse is serving outside the United States in the Peace Corps.
- ❑ For sales and exchanges after June 17, 2008, members of the intelligence community that elect to postpone the running of the 5-year test period no longer are required to move to a duty station outside the United States.

Exclusion for Emergency Responders

For tax years 2008 through 2010, gross income does not include the following, if provided by a state or local government:

- ☐ Rebates or reductions of property or income taxes for providing services as a member of a qualified emergency response organization.
- ☐ Qualified payments (up to \$30 per month) for providing services as a member of a qualified emergency response organization.

The excluded income reduces any related tax or contribution deduction.

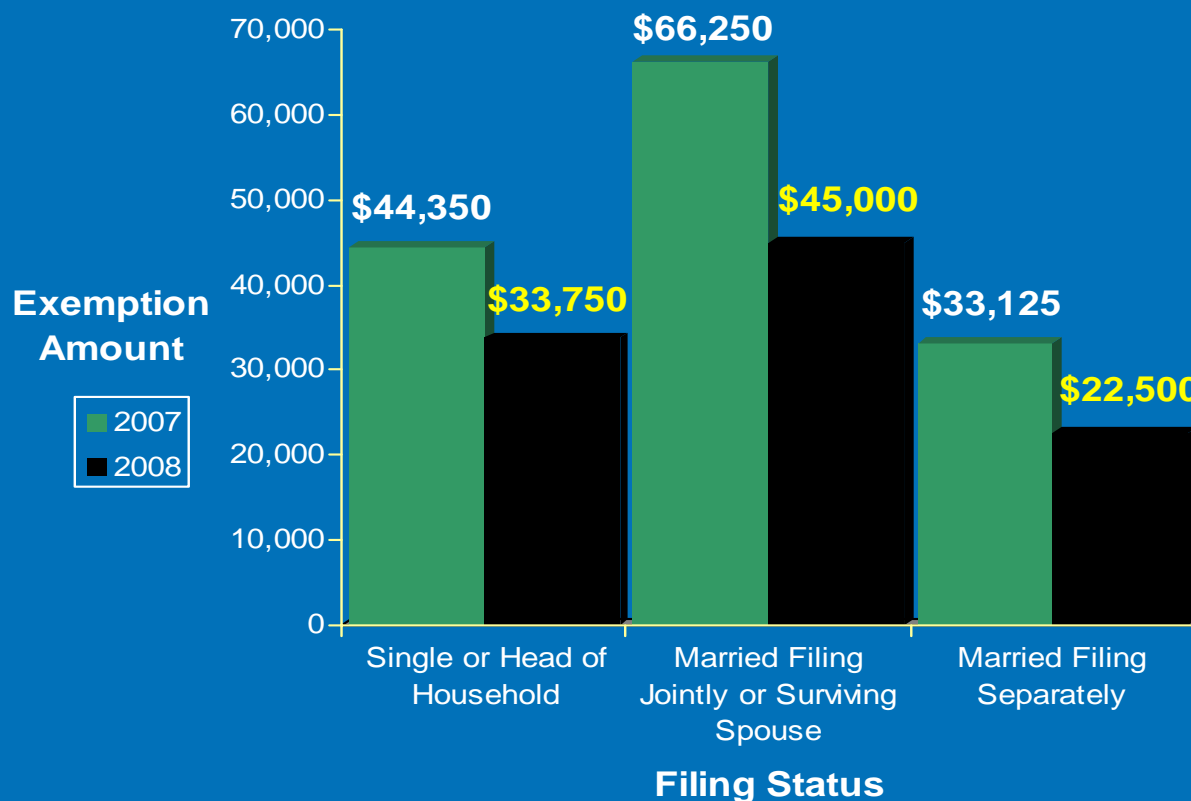


Recovery Rebate Credit

- ❑ For tax years beginning in 2008, taxpayers can claim a refundable credit figured in the same manner as the economic stimulus payment, except that the amounts are based on tax year 2008 instead of tax year 2007.
- ❑ The amount of the credit is reduced by any economic stimulus payment received in 2008. If the credit is less than the payment received, the difference does not have to be repaid.



Decrease in Alternative Minimum Tax Exemption Amount



Other Alternative Minimum Tax Changes

❑ Tax-exempt interest on certain housing bonds issued after July 30, 2008, is exempt from alternative minimum tax.

❑ A state or local bond subject to a guarantee made after July 30, 2008, by a federal home loan bank in connection with the original issuance of that bond is eligible for treatment as a tax-exempt bond.



Special Depreciation Allowance

- ☐ New 50% additional first-year special depreciation allowance applies to most **new** property purchased and placed in service after 2007.
- ☐ To be eligible, the property must be property with a recovery period of 20 years or less, off-the-shelf computer software, qualified leasehold property, or water utility property. The special allowance does not apply if the ADS method is required.
- ☐ The taxpayer may elect out for any class of property.
- ☐ The allowance is figured after the section 179 deduction and before regular depreciation.
- ☐ If the special allowance applies, the limit on depreciation and the section 179 deduction for automobiles is increased by **\$8,000**.

Section 179 Expense Deduction



- ❑ Maximum increases to **\$250,000** (**\$285,000** for enterprise zone and renewal community businesses; **\$350,000** if qualified section 179 Gulf Opportunity Zone property).
- ❑ Phase-out begins when section 179 property exceeds **\$800,000** (**\$1.4 million** if qualified section 179 Gulf Opportunity Zone property).

Self-Employment Tax

- ❑ Thresholds for farm and nonfarm optional methods increased to allow electing taxpayers to secure four credits of coverage each year. For 2008, lower limit increased from \$1,600 to \$4,200, and upper limit increased from \$2,400 to \$6,300.
- ❑ Conservation Reserve Program payments excluded from net SE earnings for farmers receiving social security benefits.



Increase in Meal Expense Limit for Certain Transportation Workers

For 2008, workers who are subject to the Department of Transportation hours of service limits can deduct 80% of business meals consumed during, or incident to, any period of duty when those limits are in effect. This includes certain air transportation workers, interstate truck operators, interstate bus drivers, certain railroad workers, and certain merchant mariners.



New Tax Credits

- ☐ Agricultural chemicals security credit (new Form 8931). Credit is 30% of qualified security expenditures paid or incurred after May 22, 2008, by sellers, distributors, and manufacturers of specified agricultural chemicals. Credit limited to \$100,000 per facility.
- ☐ Credit for employer differential wage payments (new Form 8932). Credit is 20% of differential wage payments made after June 17, 2008. Credit is available only to eligible small businesses and is limited to \$4,000 per employee.
- ☐ Credit to holders of certain forestry conservation bonds (added to Form 8912).

Business Tax Credit Changes

- ❑ Low-income housing credit:
 - For buildings placed in service after 2007, the credit is allowed against both the regular tax and the AMT.
 - Minimum 9% credit rate for non-federally subsidized new buildings placed in service after July 30, 2008.
 - Other changes simplify and reform the credit.
- ❑ Rehabilitation credit is allowed against both the regular tax and the AMT for credits on expenditures taken into account after 2007.
- ❑ Corporations can elect to forego the special depreciation allowance and instead increase the limit on the prior year minimum tax credit and research credit by the “bonus depreciation amount.” The resulting increase in each credit is allowed as a refundable credit.

Gulf Opportunity Zone Relief

- ❑ If taxpayer claimed a deduction for a casualty loss for a main home damaged in Hurricane Katrina, Rita, or Wilma, and received a grant under certain specified federal laws to reimburse the loss in a later year, the taxpayer can file an amended return for the year the casualty loss was deducted and reduce the loss by the amount of the reimbursement.
 - Amended return must be filed by the later of the due date of return for the year the grant was received or July 30, 2009.
 - No interest or penalties if the tax is paid within 1 year of the date the amended return was filed.
- ❑ The December 31, 2007, deadline for starting construction of self-constructed Gulf Opportunity Zone extension property for 50% bonus depreciation purposes is repealed. The placed in service date is unchanged.

Tax Relief for Taxpayers Affected by Kansas Storms and Tornadoes

The following disaster-related tax benefits are extended to certain taxpayers affected by the May 4, 2007, storms and tornadoes in the Kansas disaster area and are explained in detail in new Pub. 4492-A:

- ☐ Elimination of the \$100 and 10% limits on personal casualty losses.
- ☐ Extension of the replacement period for gain non-recognition from 2 to 5 years for involuntary conversions of property in the disaster area.
- ☐ Additional 50% first-year depreciation for qualified recovery assistance property acquired after May 4, 2007.
- ☐ Maximum section 179 expense deduction increased by \$100,000 for qualified section 179 recovery assistance property.
- ☐ Deduction of 50% allowed for certain demolition and clean-up costs.
- ☐ Special 5-year carryback for NOLs to the extent of certain specified amounts related to the disaster.
- ☐ Relief similar to the relief granted for the Hurricane Katrina disaster for the use of retirement funds.

Tax on Nonresident Aliens

- ❑ The exemption from tax on certain interest-related dividends and short-term capital gain dividends paid to a nonresident alien by a regulated investment company does not apply to any tax year of the company beginning after 2007.
- ❑ U.S. citizens who relinquish their citizenship after June 16, 2008, are treated as having sold all of their property at fair market value on the day before the expatriation date. An election to defer the tax owed on the deemed sale of the property may be made if adequate security is provided.



Other Tax Relief Provisions

- ❑ For tax years beginning after 2007, the current year refundable credit for prior year minimum tax cannot be less than the prior year refundable credit (before the AGI phase-out).
- ❑ An individual receiving a military death gratuity or a Servicemembers' Group Life Insurance payment can roll that amount over to a Roth IRA or Coverdell ESA without regard to any contribution or income limits. The rollover must be made within 1 year of receipt of the payment (or within 1 year after June 17, 2008, if later). The provision applies to deaths from injuries occurring after October 6, 2001.

Expired Individual Provisions

The following tax benefits have expired:

- ☐ Allowance of certain personal tax credits against AMT.
- ☐ Deduction for educator expenses in figuring AGI.
- ☐ Tuition and fees deduction.
- ☐ Deduction for state and local general sales taxes.
- ☐ Nonbusiness energy property credit.
- ☐ The exclusion from income for certain IRA distributions made directly to a charity.



Expired Business Provisions

The following business tax benefits have expired:

- ☐ Research credit (for amounts paid or incurred after 2007)
- ☐ Shareholder basis adjustment for stock of S corporations making charitable contributions (for tax years beginning after 2007)
- ☐ Indian employment credit (for tax years beginning after 2007)
- ☐ Accelerated depreciation for qualified Indian reservation property placed in service after 2007
- ☐ 15-year recovery period for qualified leasehold improvements and restaurant property placed in service after 2007
- ☐ 7-year recovery period for a qualified motorsports entertainment complex (for property placed in service after 2007)

Expired Business Provisions (continued)

- ☐ Special rules for contributions of food and book inventories (for contributions made after 2007)
- ☐ Special rule for corporate contributions of computer technology or equipment for educational purposes (for tax years beginning after 2007)
- ☐ Tax incentives based on the District of Columbia Enterprise Zone (for any period after 2007)
- ☐ Deduction for domestic production activities in Puerto Rico (for tax years beginning after 2007)
- ☐ Suspension of 100% taxable income limit on percentage depletion for oil and natural gas from marginal properties (For tax years beginning after 2007)
- ☐ Environmental cleanup (remediation) costs deduction (for costs paid or incurred after 2007)
- ☐ Reforestation expense deduction increase for certain small timber producers (for expenses paid or incurred after 2007)

Pending Legislation

- ❑ **H.R. 6049**, Renewable Energy and Job Creation Act of 2008 (House and Senate)
- ❑ **H.R. 6275**, Alternative Minimum Tax Relief Act of 2008 (House)
- ❑ **S. 3335**, Jobs, Energy, Families, and Disaster Relief Act of 2008 (Senate)

IRS Nationwide
2008
Tax
FORUM
Partners in Tax
Administration





Additional Resources

☐ **Draft 2008 forms:**

www.irs.gov/taxpros/lists/0,,id=97784,00.html

☐ **Final 2008 forms:**

www.irs.gov/formspubs/lists/0,,id=97817,00.html

☐ **Pub. 553 (Rev. April 2008):**

www.irs.gov/pub/irs-pdf/p553.pdf

☐ **What's Hot In Tax Forms, Publications, and Other Tax Products:**

www.irs.gov/formspubs/article/0,,id=97397,00.html

☐ **Legislation:** thomas.loc.gov

☐ **E-mail:** *taxforms@irs.gov